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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1241st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 21 August 1997, at 10 a.m.

Chairman: Mr. BANTON

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina (continued)

Draft concluding observations concerning the initial, second and third periodic reports of the former Yugoslav Republic of Macedonia

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina (continued) (CERD/C/51/Misc.26, future CERD/C/304/Add.39)

1. The CHAIRMAN invited the Committee to resume its consideration of the concluding observations on the periodic reports of Argentina, on the understanding that some paragraphs previously considered might require rewording in the light of the subsequent discussion.

Paragraph 15

2. Mr. de GOUTTES (Country Rapporteur) said that the phrase "other minorities" should be replaced by "minorities", as had been done in earlier paragraphs.

Paragraph 16

3. Mr. van BOVEN said that he understood the correct English translation of the phrase "terres domaniales" to be "ancestral lands". In that case, it had been a mistake to delete the word "ancestral" ("domaniale") in paragraph 10, and it should be restored.

4. Mr. VALENCIA RODRIGUEZ said that the term "ancestral" denoted lands which were under the control of indigenous peoples; "ancestral lands" ("tierras ancestrales" in Spanish) was therefore the correct term.

5. Mr. GARVALOV pointed out that the official documents provided by the Government of the Philippines during the consideration of its periodic report had referred to "ancestral lands/domains". Apparently, the term "lands" was associated with claims made by individuals, while "domains" was associated with community lands.

6. Following comments by the CHAIRMAN and Mr. WOLFRUM and in the light of Mr. Garvalov's comment, Mr. de GOUTTES suggested that the phrase "ancestral lands and domains" should be used in both paragraph 10 and paragraph 16.

Paragraph 17

7. Mr. de GOUTTES said that Mr. Valencia Rodriguez had suggested including a specific reference to the relevant article of the Convention, namely article 5.

8. Mr. SHERIFIS said that the first sentence of the paragraph expressed the Committee's satisfaction and should therefore be included in section C, "Positive aspects". He suggested that the second sentence should be moved to section E, "Suggestions and recommendations".

9. Mr. ABOUL-NASR asked whether the situation of foreigners and immigrants, which was the subject of the paragraph, came within the scope of the Convention at all.

10. The CHAIRMAN said that the problem raised by Mr. Sherifis would also apply to paragraph 18. Could the problem be solved by saying "non-nationals" rather than "immigrants"?

11. Mr. ABOUL-NASR did not understand why concern had been expressed about Argentina's treatment of immigrants from the MERCOSUR countries as compared with others. Many countries treated immigrants from their regional organization, such as the European Union or the League of Arab States, more favourably than other immigrants.

12. The CHAIRMAN suggested that a new paragraph should be inserted after the existing paragraph 10, to read: "In connection with article 5 of the Convention, the conclusion of a bilateral accord with Bolivia to regularize the position of some 500,000 Bolivians who have been in an irregular position in Argentina and the regularization of the situation of 250,000 foreigners in an irregular position in Argentina under decree No. 1033/92 are noted with satisfaction".

13. Mr. de GOUTTES said that the Committee very often considered the situation of refugees and immigrants, and he saw no contradiction with the Convention.

14. If the new paragraph read out by the Chairman was adopted, paragraph 17 would then read: "More specific information is needed about the legal regime currently applicable to immigrants, and particularly about the distinction between immigrants from member States of MERCOSUR and others".

15. The CHAIRMAN suggested that a reference might be included to the Committee's General Recommendation XI on non-citizens

16. In response to a comment by Mr. ABOUL-NASR, Mr. de GOUTTES suggested that the second sentence of the paragraph - and therefore paragraph 17 as a whole - should be deleted, since it went into too much detail.

17. The CHAIRMAN concluded that the Committee seemed to be agreed that the first sentence of paragraph 17, with the proposed amendments, should become a new paragraph after the present paragraph 10, and that the second sentence of paragraph 17 should be deleted.

18. It was so decided.

Paragraph 18

19. Mr. de GOUTTES suggested that the paragraph should be amended to read: "Although [...] are considered positive, the lack of information on the situation of these refugees is noted with regret".

20. Mr. VALENCIA RODRIGUEZ said that, as in the former paragraph 17, a reference to a particular article of the Convention was needed. He felt that

the first part of the sentence belonged in section C, "Positive aspects". The second half of the sentence was superfluous, since there was a request for more information about the situation of refugees in paragraph 26.

21. Mr. SHERIFIS agreed with those comments, but in that case paragraph 26 should be amended to read: "... information on the number and situation of refugees ...".

22. Mr. de GOUTTES proposed that the first part of paragraph 18 should be moved to section C, "Positive aspects", just before the present paragraph 11, with the following wording: "The establishment of the Refugee Eligibility Committee and its close cooperation with the Office of the United Nations High Commissioner for Refugees are considered positive". The rest of paragraph 18 would then be deleted.

Paragraph 19

23. Mr. ABOUL-NASR said that the phrase "it is noted with concern" was much too strong: indeed, it was tantamount to accusing the Argentine Government of being an accomplice in anti-Semitic attacks. The paragraph referred to complaints about the slow pace of the investigations into those acts without saying who had made the complaints.

24. Mr. van BOVEN suggested that a reference should be included to the Committee's decision 3 (45), adopted at its forty-fifth session on 16 August 1994. The Committee had specifically asked for information about the investigations to be included in the periodic report, but the Argentine Government had not done so. The Committee might even express its regret that its request had not yet been complied with.

25. Mr. SHERIFIS pointed out that, in paragraph 27, the Committee called upon the Argentine Government to expedite the investigations. He therefore felt that paragraph 19 could be deleted altogether.

26. Mr. de GOUTTES said that it was inevitable that material in section D of the concluding observations should overlap with that in section E, since the former expressed a concern of the Committee and the latter showed what the Committee wanted States parties to do. He suggested the following revised version of paragraph 19: "With reference to decision 3 (45), adopted by the Committee on 16 August 1994, it is noted with concern that the investigations into the anti-Semitic attacks of 1992 and 1994 have still not been completed".

27. Mr. RECHETOV said that there was not necessarily any need to repeat the same material in different sections of the concluding observations. He felt that the best solution was Mr. Sherifis', namely to delete paragraph 18 altogether. Paragraph 27 should then be amended to read: "... articles 5 (a) and 6 of the Convention and the Committee's decision 3 (45) of 16 August 1994".

28. Mr. WOLFRUM disagreed with the suggestion made by Mr. Sherifis and supported by Mr. Rechetov. The Committee had raised the issue orally and had

received no reply, and it had also adopted a decision. The behaviour of the State party in that connection was a matter of concern which he wished to express in the way proposed by Mr. de Gouttes.

29. The CHAIRMAN observed that the delegation had been reminded of the Committee's decision prior to its meeting with the Committee.

30. Mr. ABOUL-NASR said that the Committee should not include references in each part of its reports to anti-Semitism and anti-Nazism. It was a campaign which had been going on for some time and he did not agree with it. He totally disagreed with the approach taken by Mr. de Gouttes and Mr. Wolfrum, but as a compromise could accept the suggestion made by Mr. Rechetov on the basis of Mr. Sherifis' proposal.

31. Mr. SHERIFIS said that the concern expressed by Mr. van Boven could be met by a slight change to his earlier proposal: paragraph 19 should be deleted on account of the divergence of views and paragraph 27 should start with the phrase "The Committee, recalling its decision 3 (45) of 1994, adopted by the Committee on 16 August 1994, invites the State party ...".

32. Mr. SHAHI fully supported that proposal.

33. Mr. de GOUTTES (Country Rapporteur) pointed out that that proposal would make the subject a recommendation instead of a subject of concern. If the Committee agreed to that change, he would not object.

34. The CHAIRMAN said he took it that the Committee wished to adopt the amendment proposed by Mr. Sherifis.

Paragraph 21

35. Mr. de GOUTTES (Country Rapporteur) pointed out that the reference to article 7 of the Convention had been included to incorporate the proposal of Mr. Valencia Rodríguez.

36. Mr. SHERIFIS said that the expression of satisfaction in the first sentence should be moved to the positive aspects in section C.

37. Mr. ABOUL-NASR supported that proposal. As far as section D was concerned, he noted that the Committee had expressed concern on the implementation of every article of the Convention, apart from articles 2 and 3.

38. Mr. GARVALOV said that a balance between expressions of satisfaction and of concern could easily be achieved by first taking note of the satisfactory situations and then expressing concern.

39. It was particularly important that educational programmes covered racial discrimination specifically as well as human rights. He therefore suggested that a reference to the prevention of racial discrimination should be inserted into paragraph 21 after "human rights", in line with the recommendation in paragraph 29.

40. Mr. SHAHI said that if the first sentence of paragraph 21 was to be moved to section C, the second sentence might then more appropriately be placed in paragraph 29.

41. Mr. de GOUTTES (Country Rapporteur) said that in the light of the proposals which had been made, the first sentence, amended by the insertion of the words "and the prevention of racial discrimination" after "human rights", should be moved to section C as a new paragraph after paragraph 11. The reference to article 7 of the Convention was unnecessary in that section and could therefore be deleted. The last sentence of paragraph 21 would then be incorporated into paragraph 29.

Paragraph 23

42. Mr. RECHETOV said that the word "other" (autres) before the words "ethnic minorities" should be deleted.

Paragraph 25

43. Mr. WOLFRUM said that as the Committee had now adopted a general recommendation concerning indigenous peoples, it would be appropriate to include a reference to it at the end of the paragraph, to read: "In this context, the attention of the State party is drawn to the Committee's General Recommendation concerning Indigenous Peoples"; giving the exact title.

44. Mr. RECHETOV suggested that reference should also be made to the judicial authorities, given that legal provisions had been mentioned.

45. Mr. de GOUTTES (Country Rapporteur) said that in the light of that suggestion, the words "administrative and legal" might best be deleted and the words "including the judicial authorities" inserted after "local and federal authorities".

46. The CHAIRMAN said that he took it that the Committee wished to adopt the paragraph as amended.

Paragraph 26

47. Mr. de GOUTTES (Country Rapporteur) reminded the Committee of Mr. Sherifis' proposal to insert the words "the number and" after "information on".

Paragraph 27

48. Mr. de GOUTTES (Country Rapporteur) pointed out that the paragraph would start with the words "The Committee, recalling its decision No. 3 (45) of 16 August 1994 ..." in line with the amendment proposed by Mr. Sherifis.

Paragraph 29

49. Mr. de GOUTTES (Country Rapporteur) said that the incorporation of the second sentence of paragraph 21 as suggested by Mr. Shahi would involve a long

list including police, military, lawyers, magistrates, teachers and pupils. It could be shortened, however, by using the expression "law enforcement officials" which covered the police, the military, lawyers and magistrates.

50. The CHAIRMAN said he took it that the Committee would prefer to leave paragraph 29 as it stood.

Paragraph 30

51. Mr. VALENCIA RODRIGUEZ suggested that the word "widely" (largement) was unnecessary and should therefore be deleted.

52. Mr. RECHETOV said that if the Committee did not lay emphasis on the wide dissemination of the documents, they would never reach the wider public at all.

53. Mr. van BOVEN pointed out that the text as it stood was a standard phrase; it should therefore remain unchanged.

Paragraph 33

54. Mr. de GOUTTES (Country Rapporteur) said that he had opted for requesting that the present report be updated as the State party's next report was due in a matter of months.

55. Mr. ABOUL-NASR said that it was unreasonable to ask for the report to be updated in view of the amount of information requested. Furthermore, having commended the delegation on its composition and taken note of its replies with satisfaction, the Committee had then criticized the extent to which every article of the Convention had been implemented. It should therefore consider whether its procedure could not be improved in some way in the future.

56. The CHAIRMAN said that those concerns could be discussed on the last afternoon of the session.

57. Mr. SHERIFIS said that Mr. Aboul-Nasr's concerns about Argentina's next report might be met if, instead of asking for the present report to be updated, the Committee were to ask for an updated report, using the formulation which it had agreed earlier in the session to insert in the reports of all States parties.

58. Mr. de GOUTTES (Country Rapporteur) said that in the light of that proposal, it would be sufficient to delete the words "of the present report" from the French text.

Paragraph 3

59. Mr. YUTZIS, reverting to paragraph 3, said that the paragraph as it stood contained an error which might discredit the Committee in Argentina when the report was disseminated. It was not true to say that the main victims of

unemployment and poverty were the members of the indigenous populations and other ethnic minorities. Those groups were among the main victims, but the main victims were the 70 per cent or more of the people, many of them from the middle classes, who lived in the urban periphery.

60. Mr. de GOUTTES (Country Rapporteur) said that the simplest solution would be to say that the main victims included the members of those groups (in the French version, "parmis les principales victimes figurent ...",) and to replace the words "of the other ethnic minorities" by "the ethnic minorities".

61. The draft concluding observations concerning the eleventh to fourteenth periodic reports of Argentina as a whole, as amended, were adopted.

Draft concluding observations concerning the initial, second and third periodic reports of the former Yugoslav Republic of Macedonia (CERD/C/51/Misc. 24, future CERD/C/304/Add.38)

62. Mr. RECHETOV (Country Rapporteur) said that suggestions by Mr. Wolfrum, Mr. Garvalov, Mr. Diaconu, Mr. van Boven and the Chairman, mainly of an editorial nature, had been incorporated into the draft text before the Committee.

Paragraph 2

63. Mr. ABOUL-NASR hailed the first sentence of the paragraph as a positive beginning and said he would have liked to see more of that kind of wording in other concluding observations.

Paragraph 3

64. Mr. RECHETOV proposed that the economic difficulties experienced by the State party should be described as "partly" resulting from hostilities in the Balkan region.

Paragraph 4

65. Mrs. SADIQ ALI, supported by Mr. van BOVEN, proposed the deletion of all the parentheses in the paragraph.

Paragraph 5

66. Mr. RECHETOV (Country Rapporteur) suggested that in the interest of clarity and conciseness, if paragraph 5 was accepted, paragraphs 18 and 19 should be deleted.

Paragraph 6

67. The CHAIRMAN, supported by Mr. GARVALOV, suggested the deletion of the word "quantitative".

Paragraph 9

68. Mr. WOLFRUM said that the word "the" should be inserted between "in" and "whole territory of the State party".

Paragraph 12

69. The CHAIRMAN suggested that "on indiscriminatory basis" be replaced by "on a non-discriminatory basis".

Paragraph 14

70. Mr. ABOUL-NASR said it was unnecessary to ask for information on whether the Convention was directly applicable before the domestic courts because he recalled a member of the delegation to have addressed the issue.

71. Mr. RECHETOV (Country Rapporteur) said that there was some information on the question in the report itself but he could not say that the Committee had come away with a clear impression that the Convention was applicable in the domestic courts as the report contained no reference to specific cases of application in the courts. If such cases were included in the next report, they could form a basis for constructive dialogue in the future. He suggested that "additional" should be inserted before "information" in the first sentence.

Paragraph 15

72. Mr. RECHETOV (Country Rapporteur), in reply to Mr. SHAHI's request for clarification of the use of the word "integrate", said that he agreed that the word might have certain negative connotations. The reasoning behind it, however, was that efforts should be made to ensure that, as in Kosovo, there should not be two separate educational systems.

73. He rejected the CHAIRMAN's suggestion to reword the sentence to say "... to provide for different ethnic minorities within a unitary education system ...".

74. Mr. WOLFRUM said that "integrate" met the concerns expressed about a particular private school which only offered instruction in Albanian. It had led to violent clashes between supporters of the school and the State forces. Mr. Rechetov's call for teachers to be educated within State institutions was appropriate and explained his choice of the word "integrate". While he was aware of the negative connotations of the word, he felt nonetheless that "unitary" was by no means a solution.

75. Mr. RECHETOV (Country Rapporteur) said that Mr. Shahi would perhaps agree to retain "integrate" if he knew that the aim was not to force Albanian students to attend educational institutions that were not of their choice. Rather, the idea was that the Albanian university should be given the formal recognition it deserved and integrated, i.e. "included" in the education system.

76. The CHAIRMAN, further to a comment by Mr. SHAHI, suggested that the phrase might be reworded to read: "... to integrate different ethnic minority institutions in the education system ...".

77. Mr. SHAHI suggested replacing the phrase "to integrate different ethnic minorities in the educational system" with "to improve the educational system for the ethnic minorities".

78. Mrs. SADIO ALI proposed simply replacing "to integrate" with "to include", which would have the meaning of "to absorb".

79. Mr. DIACONU agreed, saying that the country had one educational system, not several. The educational system of each country should be inclusive, rather than exclusive, in the sense that it had to comprise all the sectors of the population.

80. Mr. YUTZIS said that replacing "to integrate" with "to include" could create problems; he proposed "to facilitate participation of ethnic minorities".

81. Mr. RECHETOV (Country Rapporteur) said all the proposals implied recognition of educational systems which had not been given the appropriate legal status. It was dangerous for a country to begin dividing its population from the earliest years of schooling. What the Committee was trying to say was that there was a single educational system, but that, where separate educational establishments had been set up by minorities, they had to be given the maximum attention by the authorities.

82. Mr. SHAHI said Mr. Yutzis' proposal met his concerns and avoided the ambiguity raised by the word "include", which implied that at present the minorities were excluded from the educational system.

83. Mr. RECHETOV (Country Rapporteur) suggested that the first part of paragraph 15 should be amended to read: "The Committee recommends that the State party continue its efforts to facilitate the participation of different ethnic minorities in the educational system", and the rest of the paragraph left unchanged.

84. It was so decided.

Paragraph 17

85. Mr. RECHETOV (Country Rapporteur) proposed some minor drafting changes in the penultimate line and suggested that the Committee's General Recommendation XXI (48) be reproduced in the form in which it had been adopted.

86. Mr. SHAHI said that although he had not been present when the General Recommendation on self-determination had been adopted, he had subsequently voiced his strong reservations about the wording. He could not, therefore, accept the last sentence of the paragraph. Furthermore, it would be the

first time that the Committee, of its own volition, was applying the General Recommendation. Secession of a minority was not an active issue in the former Yugoslav Republic of Macedonia. A reference to the General Recommendation was unnecessary and would introduce a significant precedent that would have to be applied to observations concerning other reports. There was no call for setting such a precedent. He was in favour of territorial integrity for States but the Committee seemed to be venturing into controversial territory by interpreting the principle of self-determination. Every multinational State had problems of the kind faced by the State party in question.

87. Mr. WOLFRUM, supported by Mr. RECHETOV (Country Rapporteur), said that although he had initially favoured the insertion of the last sentence, he would not insist on it. However, he disagreed with Mr. Shahi on one point. There was a very strong, openly declared Albanian-led secessionist movement in Macedonia which threatened the territorial integrity of the State. That being said, Mr. Shahi's words of caution were appropriate and he would agree to the deletion of that part of the paragraph.

88. Mr. ABOUL-NASR said that he had serious doubts about the paragraph. The Committee should not venture into an issue that had not been fully discussed with the State party. Furthermore, it might be asked which part of the Convention covered the issue of territorial integrity of all neighbouring States. The Committee had never adopted similar action before. Moreover, was General Recommendation XXI (48), of itself, not sufficient to address the issue?

89. Mr. WOLFRUM specified that he was in favour of ending the paragraph after the first sentence.

90. Mr. GARVALOV said that it would be appropriate for the Committee to mention territorial integrity in its observations because the issue had been discussed. From the statements of all the members of the delegation it had been clear that there was an awareness of secessionist tendencies and the threats to their country's territorial integrity. It would be right for the Committee to defend the former Yugoslav Republic of Macedonia as one of the newest States parties to the Convention and express concern about its territorial integrity.

91. Mr. ABOUL-NASR suggested that the present text should be replaced by two paragraphs: one asking the authorities to provide educational and cultural opportunities, and another, on the continued existence of the State, referring to the Committee's General Recommendation.

92. Mr. RECHETOV (Country Rapporteur) said that the paragraph was important. The former Yugoslav Republic of Macedonia was in an exceptional situation, as was the Russian Federation, where the issues surrounding Chechnya and other Caucasian republics could last for decades or even centuries. Many of its neighbours had called into question the Federal Republic of Macedonia's continued right to existence, along with the future of its ethnic groups and their right to develop their own culture and ethnicity. The stability of other neighbouring countries might be jeopardized. The Committee should therefore not give the impression that it was referring simply to schools, universities and other educational establishments; rather, it was talking

about the very existence of a State and the prevention of ethnic and possibly armed conflict in that part of the world. If the media discovered that the Committee was deleting a reference to the territorial integrity of the Balkan States, it might make the headlines; the deletion was not a good idea at all. He supported deleting the third, but not the second, sentence.

93. The CHAIRMAN suggested that the expression in an earlier Committee report of its commitment to the concept of multi-ethnic society should be used in the present observations.

94. Mr. SHAHI said that, in the interests of compromise, he would not object to retaining the first sentence of paragraph 17, but the second sentence should be deleted; otherwise, the same point might have to be made with regard to many other countries, and no two States could be considered by the same yardstick. Again, he urged caution in dealing with such sensitive and controversial issues as self-determination in relation to any one State.

95. Mr. RECHETOV said that, in a spirit of compromise, although he had said that the second sentence contained important points, he could join a consensus on retaining only the first sentence.

96. Mr. GARVALOV said he agreed with Mr. Shahi that each case should be considered on its own merits. That included the former Yugoslav Republic of Macedonia, which was, moreover, being discussed by the Committee for the first time. In response to a question he himself had asked, the representative of the State party had assured the Committee that article 49 of the Constitution had already been amended to exclude any possibility of the Republic's interfering in the internal affairs of neighbouring countries; unamended, the language had created apprehensions and problems with one of the Republic's neighbours. The Committee should recognize the problems relating to implementation of the Convention in the State party, which needed its support.

97. Mr. DIACONU said that the main argument for deleting the second sentence was its reference to the territorial integrity of neighbouring States; did that mean that the former Yugoslav Republic of Macedonia was threatening that integrity? Previously, the Committee had always referred to the protection of a State's own territorial integrity. If there were signs that the State was promoting an aggressive policy towards neighbouring States, the reference might be appropriate, but in any case he did not believe it was within the Committee's competence. If retained, the sentence should be amended, although he would prefer its deletion.

98. Mr. de GOUTTES said he favoured the idea of having two separate paragraphs. In that case, the second sentence should be amended as Mr. Diaconu had proposed.

99. Mr. RECHETOV (Country Rapporteur) explained that the second sentence should have begun with the phrase: "The territorial integrity of Macedonia, as of all neighbouring States ... ." He disagreed with the idea of splitting the paragraph into two.

100. Mr. WOLFRUM said it would have been appropriate to refer to the Committee's General Recommendation on self-determination, which stated that the Committee did not encourage any form of secession and was in favour of the preservation of State identity.

101. The CHAIRMAN said the General Recommendation was referred to simply as General Recommendation No. XXI (48); the Committee had decided against giving it another title.

102. Mr. van BOVEN said that, although the General Recommendation strongly favoured solutions within existing State borders, there were many other aspects to it, and it would be an oversimplification to link it only with that particular notion.

103. The CHAIRMAN said that if he heard no objection, he would take it that the Committee wished to adopt the first sentence only of paragraph 17.

104. It was so decided.

Paragraphs 18 and 19

105. The CHAIRMAN recalled Mr. Rechetov's earlier proposal: the Committee having adopted paragraph 5, paragraphs 18 and 19 were superfluous and should be deleted.

106. The concluding observations concerning the initial, second and third periodic reports of the former Yugoslav Republic of Macedonia as a whole, as amended, were adopted.

107. Mr. GARVALOV said that, in the third sentence of paragraph 8 of the summary record of the 1227th meeting (CERD/C/SR.1227), which reflected his intervention, "Bulgaria" should have read "Bulgarians". He wished again to express his concern over the situation of Bulgarians in the former Yugoslav Republic of Macedonia, whatever their number; to urge that there should be no more official pressure on them to express their Bulgarian awareness and origin openly and without obstacles; and to state that they must be guaranteed their rights under articles 8, 16 and 48 of the Constitution of the former Yugoslav Republic of Macedonia.

The meeting rose at 1 p.m.